

REMARKS/ARGUMENTS

Claims 24-28 were withdrawn and characterized as being directed to an invention that was independent or distinct from the invention originally claimed. The Examiner stated that the newly submitted claims presented subcombinations of the originally presented combination, the subcombinations presenting specific structural characteristics not required by the combination claims. Applicant respectfully traverses this restriction. Claim 24, as with each of the original independent claims, claims an abutment. The major structural elements that are claimed in this claim are the same as claimed in claim 1, namely, a facing wall, a retaining enclosure, and first and second lateral containment elements. Claim 24 further adds that each of the lateral containment elements include a concrete reinforced block. Therefore, claim 24 simply cannot be considered as a subcombination of the originally claimed invention. As for new independent claim 26, as with claim 24, it also claims a facing wall, and a retaining enclosure. In lieu of the first and second lateral containment elements, claim 26 provides means plus function language for these structural elements. Therefore, claim 26 can not be considered a subcombination since it claims the same essential features of the invention claimed in the original independent claims. New claim 28 has been amended to further recite first and second lateral containment elements. Accordingly, claim 28 now also claims the same major structural elements as found in the original independent claims. Additionally, claim 28 also claims the plurality of piles. Therefore, this restriction should be withdrawn and claims 24-28 should be considered.

Claims 1, 6 and 8-10 were rejected under Section 102 as being anticipated by Vidal in view of Niswander. Although the Examiner stated that the claims are rejected under Section 102, it is

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believed that the Examiner intended to reject these claims under Section 103 since the Examiner is combining the teachings of Vidal and Niswander. Accordingly, Applicant's response is conditioned upon this assumption. Claim 1 has been amended to further recite that the lateral containments are designed to handle a seismic load that can be applied to the lateral containment elements during a seismic event, the design incorporating a seismic coefficient, a total mass of the bridge, and frictional resistance to lateral displacement. None of the references of record, to include Vidal and Niswander remotely disclose any design specifications for any type of lateral containment elements. For Niswander, col. 4, lns. 4-9, state

"a typical rectilinear culvert assembly 10 may also include oblique flow deflectors or wing walls 28 disposed in pairs at opposite ends of the culvert assembly 10 to direct and deflect the flow of water in the water course 12 through the covert assembly 10".

From this passage, it is clear that the purpose of the wing walls 28 in this reference are simply to direct and deflect the flow of water, and these wing walls have absolutely no function or capability to prevent damage by a seismic load, much less any other type of load. In Figure 1, the wing walls abut some unspecified quantity of back fill or soil 26. Again, there is no disclosure either in the Figures or in the description of this reference regarding any type of design considerations. Therefore, this rejection under Section 103 should be withdrawn.

Claim 4 was rejected under Section 103 as being unpatentable over either Vidal and Niswander as applied above, and further in view of Geisel. Claim 7 was rejected under Section 103 as being unpatentable over Vidal and Niswander as applied above and further in view of Vidal. Claims 4 and 7 depend directly and indirectly, respectively, from claim 1 and add additional

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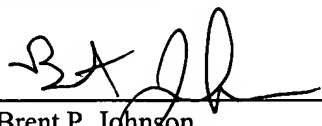
limitations thereto. Therefore, these dependent claims should also be allowed. Furthermore, Geisel fails to remedy the deficiencies as set forth above with respect to Vidal and Niswander.

It is also brought to the Examiner's attention with respect to claim 28 that none of the references of record teach or disclose a plurality of piles that are spaced from a front face of the abutment and spaced along a length of the front face, the piles being angularly emplaced thereby having a first end, and a second end in the ground positioned a greater distance from the front face. Specifically for Geisel, the piles 11 and 12 shown and disclosed therein are actually structurally connected to the abutments 5 and 6. The piles of the present invention are not structurally connected to the abutment but are rather spaced therefrom. None of the other references of record disclose this feature of the invention in the form of piles or other equivalent subsurface supports. The only piles or subsurface supports disclosed are those that structurally connect to the abutment of the bridge or culvert.

Applicant has made a sincere effort to place the application in a condition for allowance; therefore, such favorable action is earnestly solicited. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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